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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,881	03/30/2004	Kaoru Nakabayshi	Q80735	2777

23373	7590	09/06/2006

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER
LEE, TOMMY D

ART UNIT	PAPER NUMBER
2625	

DATE MAILED: 09/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No.	Applicant(s)
Office Action Summary		10/811,881	NAKABAYSHI ET AL.
		Examiner	Art Unit
		Thomas D. Lee	2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>30 March 2004</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8,13-23,28-32 and 35-40* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8,13-23,28-32 and 35-40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some *   c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☒ Certified copies of the priority documents have been received in Application No. <u>09/529,665</u>.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/30/04</u>.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____ .

DETAILED ACTION

Response to Amendment

1.   This Office action is responsive to applicant's preliminary amendment filed March

30, 2004. Claims 1-8, 13-23, 28-32 and 35-40 are pending.

Priority

2.   Acknowledgment is made of applicant's claim for foreign priority under 35

U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No.

09/529,665, filed on June 30, 2000.

Specification

3.   The lengthy specification has not been checked to the extent necessary to

determine the presence of all possible minor errors. Applicant's cooperation is

requested in correcting any errors of which applicant may become aware in the

specification.

Claim Rejections - 35 USC § 101

4.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

5.   Claims 15-23, 28, 29, 39 and 40 are rejected under 35 U.S.C. 101 because the

claimed invention is directed to non-statutory subject matter.

        Claim 15 recites a medium recording an image data set. The image data set,

comprising image data, a parameter representing contents of a predetermined image

processing and relating information, constitutes non-functional descriptive material

comprising mere data, which is not functionally and structurally interrelated to a

computer (i.e., not executable code; does not program a computer or cause the

computer to perform certain acts). Non-functional descriptive material is non-statutory

because it does not constitute a statutory process, machine, manufacture or

composition of matter (see MPEP 2106 IV.B.1(b)).

Claims 16-23, 28, 29, 39 and 40 recite a medium recording an image data

processing program for causing a computer to execute an image processing on image

data. The image data processing program constitutes functional descriptive material

comprising a computer program or algorithm that imparts functionality when employed

as a computer component (i.e., executable code; becomes one with the computer,

causes the computer to perform certain acts or functions). Functional descriptive

material must be embodied on a *computer readable medium* to impart its functionality

(see MPEP 2106.IV.B.1(a)).

Claim Rejections - 35 USC § 102

6.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7.   Claims 1-7, 15-22, 30-32 and 37-40 are rejected under 35 U.S.C. 102(b) as

being anticipated by U.S. Patent 5,669,040 (Hisatake).

Regarding claims 1-7, 37 and 38, Hisatake teaches an image data processing

apparatus in which a parameter representing contents of a predetermined image

processing to be executed on image data and the image data are saved together with

mutual relating information, the apparatus comprising: a parameter setting unit which

sets a parameter representing contents of a predetermined image processing to be

executed on image data (job setting display section U2 displays parameters for each job

(column 12, lines 54-67)); a data saving unit which saves the image data and the

parameter together with relating information (image data stored in image data storage

section (column 7, lines 16-31)); a data acquiring unit which acquires the image data

and the parameter by referring to the relating information (related information displayed

as job numbers on job console section U1 (column 12, lines 48-53)); and an image

processing reproducing unit which obtains image data subjected to the specified image

processing based on the acquired image data and parameter (jobs undergo output

process according to job management table (column 10, line 37 – column 11, line 12)).

The parameter represents a type or degree of an image processing (sheet size, number

of copies, magnification displayed on job setting display section (Fig. 8)). There are a

plurality of parameters every image processing type (plural parameters displayed for

each job (Fig. 8)). A plurality of parameters can be saved and execution can selectively

be performed from the parameters (plurality of parameters displayed, execution of

parameters performed for selected job (Fig. 8)). The parameter includes execution

order information for carrying out an image processing in predetermined order

(execution order information (output processing order) provided on job management

table (Figs. 4A, 4B)).

Regarding claim 15, Hisatake teaches a medium recording an image data set

recording: image data (image data stored in image data storage section (column 7, lines

16-31)); a parameter representing contents of a predetermined image processing such

that the image processing can be carried out for corresponding image data (job setting

display section U2 displays parameters for each job (column 12, lines 54-67)); and

relating information for relating the image data to the parameter such that the contents

of the image processing represented by the parameter can be executed on the image

data (related information displayed as job numbers on job console section U1 (column

12, lines 48-53)).

Regarding claims 16-22, 39 and 40, Hisatake teaches a medium recording an

image data processing program for causing a computer to execute steps for performing

image processing as recited in above-rejected claims 1-7, 37 and 38, respectively

(control section includes program ROM (column 7, line 60 – column 8, line 2)).

Regarding claims 30-32, Hisatake teaches an image data processing method in

which a parameter representing contents of a predetermined image processing to be

executed on image data is set, the image data and the parameter are saved together

with relating information (image data stored in image data storage section (column 7,

lines 16-31); job setting display section U2 displays parameters for each job (column 12,

lines 54-67); related information displayed as job numbers on job console section U1

(column 12, lines 48-53)); and the image data and the parameter are acquired by

referring to the relating information, and image data subjected to the specified image

processing are obtained based on the acquired image data and parameter (jobs

undergo output process according to job management table (column 10, line 37 –

column 11, line 12)).

8.   Claims 1-6, 8, 13-21, 23, 28-32, 35 and 36 are rejected under 35 U.S.C. 102(e)

as being anticipated by U.S. Patent 6,377,359 (Higashio).

        Regarding claims 1-6, 8, 13 and 14, Higashio teaches an image data processing

apparatus in which a parameter representing contents of a predetermined image

processing to be executed on image data and the image data are saved together with

mutual relating information, the apparatus comprising: a parameter setting unit which

sets a parameter representing contents of a predetermined image processing to be

executed on image data (column 7, line 64 – column 8, line 25); a data saving unit

which saves the image data and the parameter together with relating information

(column 8, lines 31-35; column 5, lines 43-54); a data acquiring unit which acquires the

image data and the parameter by referring to the relating information (column 5, lines

54-59); and an image processing reproducing unit which obtains image data subjected

to the specified image processing based on the acquired image data and parameter

(column 9, lines 4-9). The parameter represents a type or degree of an image

processing (resolution conversion, enlargement/reduction ratio (column 8, lines 10-46).

There are a plurality of parameters every image processing type (parameters for

resolution conversion include resolution of output device, information on original size

(column 8, lines 10-14). A plurality of parameters can be saved and execution can

selectively be performed from the parameters (column 8, lines 31-46; Fig. 5). The

parameter is divided into a plurality of selectable sets, and an image processing is

carried out based on a set of parameters which are selected during execution

(resolution conversion as mentioned above performed according to separate sets of

additional information (Fig. 5)). The parameter setting unit sets contents of an image

processing based on a result obtained by statistically analyzing the image data (column

9, lines 27-35). The image processing reproducing unit selects an image processing

section to execute an image processing represented by the parameter and executes the

image processing (column 7, lines 52-54).

Regarding claim 15, Higashio teaches a medium recording an image data set

recording: image data (image database including image data (column 5, lines 43-44)); a

parameter representing contents of a predetermined image processing such that the

image processing can be carried out for corresponding image data (image database

further includes image size and resolution (column 5, lines 54-57)); and relating

information for relating the image data to the parameter such that the contents of the

image processing represented by the parameter can be executed on the image data

(keyword associated with retrieval of image data (column 5, lines 57-59)).

Regarding claims 16-21, 23, 28 and 29, Higashio teaches a medium recording an

image data processing program for causing a computer to execute steps for performing

image processing as recited in above-rejected claims 1-6, 8, 13 and 14, respectively

(ROM 203 stores program for implementing image data management system (column

4, lines 20-24, 55 and 56)).

Regarding claims 30-32, 35 and 36, Higashio teaches an image data processing method in which a parameter representing contents of a predetermined image processing to be executed on image data is set, the image data and the parameter are saved together with relating information (column 8, lines 31-35; column 5, lines 43-54); and the image data and the parameter are acquired by referring to the relating information (column 5, lines 54-59); and image data subjected to the specified image processing are obtained based on the acquired image data and parameter (column 9, lines 4-9). The image data are statistically analyzed and contents of an image processing are set based on a result of the analysis (column 9, lines 27-35). An image processing section is selected to execute an image processing represented by the parameter and is caused to execute the image processing (column 7, lines 52-54).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas D. Lee whose telephone number is (571) 272-7436. The examiner can normally be reached on Monday-Friday, 7:30-5:00, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David K. Moore can be reached on (571) 272-7437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Thomas D Lee
Primary Examiner
Technology Division 2625

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August 31, 2006